

State of California

Pete Wilson, Governor

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BOARD OF CHIROPRACTIC EXAMINERS
3401 Folsom Blvd., Suite B
Sacramento, CA 95816
(916) 739-3445

June 1991

Dear Fellow Doctor of Chiropractic

In 1977 the Sacramento County District Attorney's Office took action against doctors of chiropractic for using ultrasound. That unwarranted attack was warded off with great difficulty. This is just one example of the discrimination that has plagued chiropractic throughout its history. The California Attorney General's Office had repeatedly advised the profession that they could not offer support on specific issues related to chiropractic scope of practice because the regulation defining scope of practice was unclear. In 1985 the Board of Chiropractic Examiners proposed a regulation which more clearly defined the practice of chiropractic in California. When that regulation finally gained the approval of the Office of Administrative Law and was filed with the Secretary of State in 1987, the Board of Chiropractic Examiners was sued by the California Medical Association (CMA) and the California Chapter of the American Physical Therapy Association (CCAPTA). Shortly thereafter the Medical Board of California (formerly the Board of Medical Quality Assurance) and the Physical Therapy Examining Committee (PTEC) intervened in the lawsuit on behalf of the CMA and CCAPTA.

The Board of Chiropractic Examiners has at long last settled the controversial litigation regarding 302 defining the legal scope of chiropractic practice. The language of Rule 302 has been amended and noticed as an emergency regulation in California.

The new amended Rule 302 affirms the rights of a chiropractic doctor to use chiropractic methods and techniques to treat any condition, disease, or injury on any patient including a pregnant woman, to diagnose, to use ultrasound, x-ray and thermography, and physical therapy techniques in the course of chiropractic manipulations and/or adjustments. The new amended language does not exclude technological advances in treatment or diagnosis except as specifically stated in the regulation; and the phrase "... in the course of chiropractic manipulations and/or adjustments", allows the use of physical therapy techniques during a course of chiropractic treatment without requiring an adjustment during every office visit.

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As a condition of the Settlement Agreement with the parties in this lawsuit, the Board of Chiropractic Examiners is required to send every licensee of the Board the accompanying letter and a copy of the new amended Rule 302. In compliance with that Agreement you will find the attached letter and the language of Rule 302. Please review and familiarize yourself with both of them.

Sincerely,

A handwritten signature in cursive script that reads "Louis E. Newman, D.C.".

Louis E. Newman, D.C., Chairman
BOARD OF CHIROPRACTIC EXAMINERS

BOARD OF CHIROPRACTIC EXAMINERS
3401 Polson Blvd., Suite B
Sacramento, CA 95816
(916) 739-3445

June 20, 1991

Dear Licentiate:

As the Board of Chiropractic Examiners ("BCE") has previously informed you, there has been ongoing litigation regarding Rule 302, which defines the legal scope of chiropractic practice. In order to settle this litigation, the Board has noticed a new proposed Rule 302, a copy of which is attached hereto.

The most important changes contained in the new Rule 302 are as follows:

1. The authorization for "chiropractic prenatal and postnatal care" contained in Rule 302 (a)(2) has been deleted. An authorization has been included in Rule 302(a)(3) for a chiropractor to "treat any condition, disease, or injury in any patient, including a pregnant woman"
2. The authorization for colonic irrigations and enemas contained in Rule 302(a)(2) has been deleted.
3. The authorization to use physical therapy has been further defined in Rule 302(a)(2) so that it now will state "physical therapy techniques in the course of chiropractic manipulations and/or adjustments."
4. Prohibition against the use of lithotripters, the use of ultrasound on a fetus, and of the performance of a mammography have been included in Rule 302(a)(4)(F)(G), and (H). These do not constitute regulatory changes, but rather are a restatement of existing law.
5. Rule 302(a)(7) has been modified to include a specific prohibition against using the term "physical therapy" in advertising unless the person so advertising holds a physical therapy license.

All licentiates will be notified when final action is taken on this proposed regulation.

Sincerely yours,



Louis Newman, D.C., Chairman
Board of Chiropractic Examiners

302. PRACTICE OF CHIROPRACTIC.

(a) Scope of Practice.

(1) A duly licensed chiropractor may manipulate and adjust the spinal column and other joints of the human body and in the process thereof a chiropractor may manipulate the muscle and connective tissue related thereto.

(2) As part of a course of chiropractic treatment, a duly licensed chiropractor may use all necessary mechanical, hygienic, and sanitary measures incident to the care of the body, including, but not limited to, air, cold, diet, exercise, heat, light, massage, physical culture, rest, ultrasound, water, and physical therapy techniques in the course of chiropractic manipulations and/or adjustments.

(3) Other than as explicitly set forth in Section 10(b) of the Act, a duly licensed chiropractor may treat any condition, disease, or injury in any patient, including a pregnant woman, and may diagnose, so long as such treatment or diagnosis is done in a manner consistent with chiropractic methods and techniques and so long as such methods and treatment do not constitute the practice of medicine by exceeding the legal scope of chiropractic practice as set forth in this section.

(4) A chiropractic license issued in the State of California does not authorize the holder thereof:

- (A) to practice surgery or to sever or penetrate tissues of human beings, including, but not limited to severing the umbilical cord;
- (B) to deliver a human child or practice obstetrics;
- (C) to practice dentistry;
- (D) to practice optometry;
- (E) to use any drug or medicine included in materia medica;
- (F) to use a lithotripter;
- (G) to use ultrasound on a fetus for either diagnostic or treatment purposes; or
- (H) to perform a mammography.

(5) A duly licensed chiropractor may employ the use of vitamins, food supplements, foods for special dietary use, or proprietary medicines, if the above substances are also included in Section 4052 of the Business and Professions Code, so long as such substances are not included in materia medica as defined in Section 13 of the Business and Professions Code.

The use of such substances by a licensed chiropractor in the treatment of illness or injury must be within the scope of the practice of chiropractic as defined in Section 7 of the Act.

(6) Except as specifically provided in Section 302(a)(4), a duly licensed chiropractor may make use of X-ray and thermography equipment for the purposes of diagnosis but not for the purposes of treatment. A duly licensed chiropractor may make use of diagnostic ultrasound equipment for the purposes of neuromuscular skeletal diagnosis.

(7) A duly licensed chiropractor may only practice or attempt to practice or hold himself or herself out as practicing a system of chiropractic. A duly licensed chiropractor may also advertise the use of the modalities authorized by this section as a part of a course of chiropractic treatment, but is not required to use all of the diagnostic and treatment modalities set forth in this section. A chiropractor may not hold himself or herself out as being licensed as anything other than a chiropractor or as holding any other healing arts license or as practicing physical therapy or use the term "physical therapy" in advertising unless he or she holds another such license.

(b) Definitions.

(1) Board. The term "board" means the State Board of Chiropractic Examiners.

(2) Act. The term "act" means the Chiropractic Initiative Act of California as amended.

(3) Duly licensed chiropractor. The term "duly licensed chiropractor" means any chiropractor in the State of California holding an unrevoked certificate to practice chiropractic, as that term is defined in Section 7 of the Act, that has been issued by the board.